

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DARLENE WICKER and U.S. POSTAL SERVICE,
POST OFFICE, Boston, MA

*Docket No. 03-314; Submitted on the Record;
Issued March 19, 2003*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant has met her burden of proof in establishing that she sustained a right hand condition causally related to employment factors.

On May 25, 2002 appellant, then a 52-year-old data conversion operator, filed an occupational disease claim alleging that the repetitive keying duties of her position caused pain in her right hand extending to her wrist from the index finger across the back of her hand. In support of the claim, she submitted a work restriction note from the Harris Family Chiropractic Clinic dated May 23, 2002, which diagnosed appellant with second digit strain from overuse and released appellant to duty. Appellant did not lose any time from work.

In a letter dated June 5, 2002, the Office of Workers' Compensation Programs requested additional factual and medical evidence from appellant in order to make a determination regarding her occupational disease claim.

In response, appellant submitted a narrative statement dated June 11, 2002 and a medical note from Dr. Kathleen Talbott, her attending physician, dated June 3, 2002. In her statement, she discussed her employment and reiterated that on May 21, 2002, while keying, she experienced the sharp right hand pain that she discussed on the claim form, which radiated over her wrist area. In the medical note, Dr. Talbott stated: "[Appellant] appears to have carpal tunnel a repetitive motion injury, due to her job as a data entry operator. She needs to see a neurologist or orthopedic surgeon for an electromyogram (EMG) for a work-related injury."

By decision dated July 31, 2002, the Office denied appellant's claim on the grounds that the medical evidence was insufficient to establish that her condition was caused by the claimed employment factor as required by the Federal Employees' Compensation Act.¹ The Office advised that the evidence of record did not contain any history of injury, examination findings or any opinion as to the cause of her condition. Further, the Office indicated that appellant was advised that the Act limits treatment by chiropractors for on-the-job injuries unless a subluxation

¹ 5 U.S.C. §§ 8101-8193.

of the spine exists demonstrable by x-ray findings and appellant was provided an opportunity to submit supportive evidence. The Office indicated, however, that because subluxation was not diagnosed by x-ray in the report from the chiropractic clinic, the evidence submitted was insufficient to establish the claim.

In a letter dated August 20, 2002, appellant requested reconsideration and submitted additional evidence. In support of the request, she submitted a request for diagnostic testing dated July 16, 2002, which also indicated that appellant would need a few days off from work. Appellant also submitted findings of an electromyography and nerve conduction study performed August 3, 2002, which diagnosed mild bilateral carpal tunnel syndrome.

By merit decision dated September 11, 2002, the Office denied modification of the prior decision. The Office found that the evidence submitted was insufficient to warrant modification.

The Board finds that appellant has not met her burden of proof in establishing that she sustained a right hand condition causally related to employment factors.

An employee seeking benefits under the Act has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of the Act, that the claim was timely filed within the applicable time limitation of the Act, that an injury was sustained in the performance of duty as alleged and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.² These are essential elements of each compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish a causal relationship is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a causal relationship between the claimant’s diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

In this case, appellant did not submit sufficient medical evidence to establish that she sustained a right hand condition in the performance of duty. She submitted a medical report

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton* 40 ECAB 1143 (1989).

³ *See Delores C. Ellyett*, 41 ECAB 992, 994 (1990); *Ruthie M. Evans*, 41 ECAB 416, 423-25 (1990).

⁴ *Victor J. Woodhams*, 41 ECAB 345, 351-52 (1989).

from Dr. Talbott, dated June 3, 2002, in which she speculated that appellant had carpal tunnel, which she indicated was a repetitive motion injury, due to her job as a data entry operator and recommended EMG testing by a specialist. Appellant later submitted an EMG report dated August 3, 2002, which did in fact confirm that appellant had mild bilateral carpal tunnel syndrome. The Board finds that this evidence is of limited probative value regarding whether appellant sustained an employment-related injury in that neither report contains an opinion on causal relationship.⁵ Appellant also submitted a report from a chiropractor's clinic. This report would not have probative value on the relevant issue of the present case because it does not constitute medical evidence within the meaning of the Act.⁶ Appellant therefore did not submit a rationalized medical report relating her claimed condition to employment factors.

For these reasons, the Office properly found that appellant failed to establish that she sustained a right hand condition causally related to employment factors.

The September 11 and July 31, 2002 decisions of the Office of Workers' Compensation Programs are affirmed.

Dated, Washington, DC
March 19, 2003

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ See *Charles H. Tomaszewski*, 39 ECAB 461, 467-68 (1988) (finding that medical evidence, which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship).

⁶ Under section 8101(2) of the Act, chiropractors are only considered physicians, and their reports considered medical evidence, to the extent that they treat spinal subluxations as demonstrated by x-ray to exist. 5 U.S.C. § 8107(a). The reports do not contain a finding of spinal subluxations as demonstrated by x-rays to exist.